

PATENT COOPERATION TREATY

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NOTIFICATION OF TRANSMITTAL OF
THE INTERNATIONAL SEARCH REPORT AND
THE WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY,
OR THE DECLARATION

(PCT Rule 44.1)

From the INTERNATIONAL SEARCHING AUTHORITY

To:
GOWLING & HENDERSON
2600 - 160 Elgin Street
OTTAWA, Ontario
Canada, K1P 1C3

Date of mailing 08 March 2005 (08-03-2005)
(day/month/year)

Applicant's or agent's file reference
08898996WO

FOR FURTHER ACTION See paragraphs 1 and 4 below

International application No
PCT/CA2004/001940

International filing date 09 November 2004 (09-11-2004)
(day/month/year)

Applicant KEENAN, JAMES

- 1 ☒ The applicant is hereby notified that the international search report and the written opinion of the International Searching Authority have been established and is transmitted herewith.

Filing of amendments and statement under Article 19 :

The applicant is entitled, if he so wishes, to amend the claims of the international application (see Rule 46) :

When? The time limit for filing such amendments is normally two months from the date of transmittal of the international search report.

Where? Directly to the International Bureau of WIPO, 34 chemin des Colombettes
1211 Geneva 20, Switzerland, Facsimile No.: +41 22 740 14.35

For more detailed instructions, see the notes on the accompanying sheet.

- 2 ☐ The applicant is hereby notified that no international search report will be established and that the declaration under Article 17(2)(a) to that effect and the written opinion of the International Searching Authority are transmitted herewith.

- 3 ☐ With regard to the protest against payment of (an) additional fee(s) under Rule 40.2, the applicant is notified that :

☐ the protest together with the decision thereon has been transmitted to the International Bureau together with the applicant's request to forward the texts of both the protest and the decision thereon to the designated Offices.

☐ no decision has been made yet on the protest; the applicant will be notified as soon as a decision is made.

4. Reminders

Shortly after the expiration of 18 months from the priority date, the international application will be published by the International Bureau. If the applicant wishes to avoid or postpone publication, a notice of withdrawal of the international application, or of the priority claim, must reach the International Bureau as provided in Rules 90bis.1 and 90bis.3, respectively, before the completion of the technical preparations for the international publication.

The applicant may submit comments on an informal basis on the written opinion of the International Searching Authority to the International Bureau. The International Bureau will send a copy of such comments to all designated Offices unless an international preliminary examination report has been or is to be established. These comments would also be made available to the public but not before the expiration of 30 months from the priority date.

Within 19 months from the priority date, but only in respect of some designated Offices, a demand for international preliminary examination must be filed if the applicant wishes to postpone the entry into the national phase until 30 months from the priority date (in some Offices even later); otherwise, the applicant must, within 20 months from the priority date, perform the prescribed acts for entry into the national phase before those designated Offices.

In respect of other designated Offices, the time limit of 30 months (or later) will apply even if no demand is filed within 19 months.

See the Annex to Form PCT/IB/301 and, for details about the applicable time limits, Office by Office, see the *PCT Applicant's Guide*, Volume II, National Chapters and the WIPO Internet site.

Name and mailing address of the ISA/CA
Commissioner of Patents
Canadian Patent Office
Box PCT, Ottawa/Gatineau K1A 0C9
Facsimile No.

Authorized officer
Lucille Leonard (819) 953-1737

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NOTES TO FROM PCT/ISA/220

These Notes are intended to give instructions concerning the filing of amendments under Article 19. The Notes are based on the requirements of the Patent Cooperation Treaty, the Regulations and the Administrative Instructions under that Treaty. In case of discrepancy between these Notes and those requirements, the latter are applicable. For more detailed information, see also the *PCT Applicant's Guide*, a publication of WIPO.

In these Notes, "Article," "Rule" and "Section" refer to the provisions of the PCT, the PCT Regulations and the PCT Administrative Instructions, respectively.

INSTRUCTIONS CONCERNING AMENDMENTS UNDER ARTICLE 19

The applicant has, after having received the international search report and the written opinion of the International Searching Authority, one opportunity to amend the claims of the international application. It should however be emphasized that, since all parts of the international application (claims, description and drawings) may be amended during the international preliminary examination procedure, there is usually no need to file amendments of the claims under Article 19 except where, e.g. the applicant wants the latter to be published for the purposes of provisional protection or has another reason for amending the claims before international publication. Furthermore, it should be emphasized that provisional protection is available in some States only (see *PCT Applicant's Guide*, Volume I/A, Annexes B1 and B2).

What parts of the international application may be amended?

Under Article 19, only the claims may be amended.

During the international phase, the claims may also be amended (or further amended) under Article 34 before the International Preliminary Examining Authority. The description and drawings may only be amended under Article 34 before the International Preliminary Examining Authority.

Upon entry into the national phase, all parts of the international application may be amended under Article 28 or, where applicable, Article 41.

When?

Within 2 months from the date of transmittal of the international search report or 16 months from the priority date, whichever time limit expires later. It should be noted, however, that the amendments will be considered as having been received on time if they are received by the International Bureau after the expiration of the applicable time limit but before the completion of the technical preparations for international publication (Rule 46.1).

Where not to file the amendments?

The amendments may only be filed with the International Bureau and not with the receiving Office or the International Searching Authority (Rule 46.2).

Where a demand for international preliminary examination has been/is filed, see below.

How?

Either by cancelling one or more entire claims, by adding one or more new claims or by amending the text of one or more of the claims as filed.

A replacement sheet must be submitted for each sheet of the claims which, on account of an amendment or amendments, differs from the sheet originally filed.

All the claims appearing on a replacement sheet must be numbered in Arabic numerals. Where a claim is cancelled, no renumbering of the other claims is required. In all cases where claims are renumbered, they must be renumbered consecutively (Administrative Instructions, Section 205(b)).

The amendments must be made in the language in which the international application is to be published.

What documents must/may accompany the amendments?

Letter (Section 205(b)) :

The amendments must be submitted with a letter.

The letter will not be published with the international application and the amended claims. It should not be confused with the "Statement under Article 19(1)" (see below, under "Statement under Article 19(1)").

The letter must be in English or French, at the choice of the applicant. However, if the language of the international application is English, the letter must be in English; if the language of the international application is French, the letter must be in French.

NOTES TO FORM PCT/ISA/220 (continued)

The letter must indicate the differences between the claims as filed and the claims as amended. It must, in particular, indicate, in connection with each claim appearing in the international application (it being understood that identical indications concerning several claims may be grouped), whether

- (i) the claim is unchanged;
- (ii) the claim is cancelled;
- (iii) the claim is new;
- (iv) the claim replaces one or more claims as filed;
- (v) the claim is the result of the division of a claim as filed.

The following examples illustrate the manner in which amendments must be explained in the accompanying letter :

1. [Where originally there were 48 claims and after amendment of some claims there are 51]:
"Claims 1 to 29, 31, 32, 34, 35, 37 to 48 replaced by amended claims bearing the same numbers; claims 30, 33 and 36 unchanged; new claims 49 to 51 added."
2. [Where originally there were 15 claims and after amendment of all claims there are 11]:
"Claims 1 to 15 replaced by amended claims 1 to 11."
3. [Where originally there were 14 claims and the amendments consist in cancelling some claims and in adding new claims]:
"Claims 1 to 6 and 14 unchanged; claims 7 to 13 cancelled; new claims 15, 16 and 17 added." or
"Claims 7 to 13 cancelled; new claims 15, 16 and 17 added; all other claims unchanged."
4. [Where various kinds of amendments are made]:
"Claims 1-10 unchanged; claims 11 to 13, 18 and 19 cancelled; claims 14, 15 and 16 replaced by amended claim 14; claim 17 subdivided into amended claims 15, 16 and 17; new claims 20 and 21 added."

"Statement under Article 19(1)" (Rule 46.4)

The amendments may be accompanied by a statement explaining the amendments and indicating any impact that such amendments might have on the description and the drawings (which cannot be amended under Article 19(1)).

The statement will be published with the international application and the amended claims.

It must be in the language in which the international application is to be published.

It must be brief, not exceeding 500 words if in English or if translated into English.

It should not be confused with and does not replace the letter indicating the differences between the claims as filed and as amended. It must be filed on a separate sheet and must be identified as such by a heading, preferably by using the words "Statement under Article 19(1)."

It may not contain any disparaging comments on the international search report or the relevance of citations contained in that report. Reference to citations, relevant to a given claim, contained in the international search report may be made only in connection with an amendment of that claim.

Consequence if a demand for international preliminary examination has already been filed

If, at the time of filing any amendments and any accompanying statement, under Article 19, a demand for international preliminary examination has already been submitted, the applicant must preferably, at the time of filing the amendments (and any statement) with the International Bureau, also file with the International Preliminary Examining Authority a copy of such amendments (and of any statement) and, where required, a translation of such amendments for the procedure before that Authority (see Rules 55.3(a) and 62.2, first sentence). For further information, see the Notes to the demand form (PCT/IPEA/401).

If a demand for international preliminary examination is made, the written opinion of the International Searching Authority will, except in certain cases where the International Preliminary Examining Authority did not act as International Searching Authority and where it has notified the International Bureau under Rule 66.1 bis(b), be considered to be a written opinion of the International Preliminary Examining Authority. If a demand is made, the applicant may submit to the International Preliminary Examining Authority a reply to the written opinion together, where appropriate, with amendments before the expiration of 3 months from the date of mailing of Form PCT/ISA/220 or before the expiration of 22 months from the priority date, whichever expires later (Rule 43 bis.1(c)).

Consequence with regard to translation of the international application for entry into the national phase

The applicant's attention is drawn to the fact that, upon entry into the national phase, a translation of the claims as amended under Article 19 may have to be furnished to the designated/elected Offices, instead of, or in addition to, the translation of the claims as filed.

For further details on the requirements of each designated/elected Office, see the *PCT Applicant's Guide*, Volume II.

PATENT COOPERATION TREATY

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INTERNATIONAL SEARCH REPORT
(PCT Article 18 and Rules 43 and 44)

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Applicant's or agent's file reference 08898996WO	FOR FURTHER ACTION	see Form PCT/ISA/220 as well as, where applicable, item 5 below.
International application No. PCT/CA2004/001940	International filing date (day/month/year) 09 November 2004 (09-11-2004)	(Earliest) Priority date (day/month/year) 12 November 2003 (12-11-2003)
Applicant KEENAN, JAMES		
This international search report has been prepared by this International Searching Authority and is transmitted to the applicant according to Article 18. A copy is being transmitted to the International Bureau.		
This international search report consists of a total of <u>5</u> sheets. <input checked="" type="checkbox"/> It is also accompanied by a copy of each prior art document cited in this report.		
1. Basis of the report a. With regard to the language, the international search was carried out on the basis of the international application in the language in which it was filed, unless otherwise indicated under this item. <input type="checkbox"/> the international search was carried out on the basis of a translation of the international application furnished to this Authority (Rule 23.1(b)). b. <input type="checkbox"/> With regard to any nucleotide and/or amino acid sequence disclosed in the international application, see Box No. I. 2. <input checked="" type="checkbox"/> Certain claims were found unsearchable (See Box II). 3. <input type="checkbox"/> Unity of invention is lacking (See Box III). 4. With regard to the title. <input checked="" type="checkbox"/> the text is approved as submitted by the applicant. <input type="checkbox"/> the text has been established by this Authority to read as follows : 5. With regard to the abstract. <input checked="" type="checkbox"/> the text is approved as submitted by the applicant. <input type="checkbox"/> the text has been established, according to Rule 38.2(b), by this Authority as it appears in Box IV. The applicant may, within one month from the date of mailing of this international search report, submit comments to this Authority. 6. With regard to the drawings, a. The figure of the drawings to be published with the abstract is Figure No. 1A <input checked="" type="checkbox"/> as suggested by the applicant. <input type="checkbox"/> As selected by this authority, because the applicant failed to suggest a figure. <input type="checkbox"/> As selected by this Authority, because this figure better characterizes the invention. b. <input type="checkbox"/> None of the figures is to be published with the abstract.		

INTERNATIONAL SEARCH REPORT

International application No.
PCT/CA2004/001940

Box No. II Observations where certain claims were found unsearchable (Continuation of item 2 of first sheet)

This international search report has not been established in respect of certain claims under Article 17(2)(a) for the following reasons :

1. ☒ Claims Nos. : 37 and 45-55
because they relate to subject matter not required to be searched by this Authority; namely:

claim 37 is directed to a method of treatment of the human or animal body (Rule 39.1 (iv) PCT);
claims 45-55 are directed to a method of treatment of the human or animal body (Rule 39.1 (iv) PCT), however, the search was carried out based on the alleged effects of the device.
2. ☐ Claims Nos.:
because they relate to parts of the international application that do not comply with the prescribed requirements to such an extent that no meaningful international search can be carried out, specifically :
3. ☐ Claims Nos. :
because they are dependant claims and are not drafted in accordance with the second and third sentences of Rule 6.4(a).

Box III Observation where unity of invention is lacking (Continuation of item 3 of first sheet)

This International Searching Authority found multiple inventions in this international application, as follows :

1. ☐ As all required additional search fees were timely paid by the applicant, this international search report covers all searchable claims.
2. ☐ As all searchable claims could be searched without effort justifying an additional fee, this Authority did not invite payment of any additional fee.
3. ☐ As only some of the required additional search fees were timely paid by the applicant, this international search report covers only those claims for which fees were paid, specifically claims Nos. :
4. ☐ No required additional search fees were timely paid by the applicant. Consequently, this international search report is restricted to the invention first mentioned in the claims; it is covered by claims Nos. :

Remark on Protest ☐ The additional search fees were accompanied by the applicant's protest.
☐ No protest accompanied the payment of additional search fees.

INTERNATIONAL SEARCH REPORT

International application No.
PCT/CA2004/001940

A. CLASSIFICATION OF SUBJECT MATTER

A61L-27/28, A61L-27/54, A61P-35/00 A61P-31/00 A61P-31/12 A61F-2/01 A61L-27/38 A61K-35/14 A61F-2/02 A61L-27/34

According to International Patent Classification (IPC) or to both national classification and IPC

B. FIELDS SEARCHED

Minimum documentation searched (classification system followed by classification symbols)

IPC: A61L, A61F, A61P-35/00 A61P-31/00 A61P-31/12

Documentation searched other than minimum documentation to the extent that such documents are included in the fields searched

Electronic data base consulted during the international search (name of data base, and, where practicable, search terms used)
Delphion, USPTO, Canadian Patent Database and PubMed

Keywords: implant, prosthesis* and similar terms; chemokine, agonist, bacteria toxin and similar terms; attract*, chemoattract*, bind* and similar terms; local*, concentrat*; therap*, chemotherap*, treat* and similar terms; vascular, vessel, fluid and similar terms; cell

C. DOCUMENTS CONSIDERED TO BE RELEVANT

Category*	Citation of document, with indication, where appropriate, of the relevant passages	Relevant to claim No.
X	US 4,732,155 (Zetter, B. R. et al.) 22 March 1988 (22.03.1988) entire document	1-3, 6, 8-10, 13-15, 34-36, 45 and 46
Y		11, 12, 17-21, 26-31, 38, 40, 42-44, 47-49, 51, 52, 54 and 55
P, X	US 2004/0191246 A1 (Connelly, P. R. et al.) 30 September 2004 (30.09.2004) entire document	1-3, 6, 8-10, 13, 17-20, 30, 34-36, 38, 43 and 45-49
Y	CA 2,178,541 (Fearnot, N. E. et al.) 08 December 1996 (08.12.1996) Abstract, Claims, pages 4-10	17-21, 30, 31, 38, 43, 47-49 and 51
Y	WO 03/061718 (Shepard, D. C. et al.) 31 July 2003 (31.07.2003) Abstract, Claims, pages 2-4 and page 8 par. [0042]	17, 18, 38 and 47-49

Further documents are listed in the continuation of Box C.

Patent family members are listed in annex. [X]

* Special categories of cited documents:

"A" document defining the general state of the art which is not considered to be of particular relevance

"E" earlier application or patent but published on or after the international filing date

"L" document which may throw doubts on priority claim(s) or which is cited to establish the publication date of another citation or other special reason (as specified)

"O" document referring to an oral disclosure, use, exhibition or other means

"P" document published prior to the international filing date but later than the priority date claimed

"T" later document published after the international filing date or priority date and not in conflict with the application but cited to understand the principle or theory underlying the invention

"X" document of particular relevance; the claimed invention cannot be considered novel or cannot be considered to involve an inventive step when the document is taken alone

"Y" document of particular relevance; the claimed invention cannot be considered to involve an inventive step when the document is combined with one or more other such documents, such combination being obvious to a person skilled in the art

"&" document member of the same patent family

Date of the actual completion of the international-type search
18 January 2005 (18-01-2005)Date of mailing of the international-type search report
08 March 2005 (08-03-2005)Name and mailing address of the ISA/CA
Commissioner of Patents
Canadian Patent Office - PCT
Ottawa/Gatineau K1A 0C9Authorized officer
Stephen Decker (819) 934-2333

INTERNATIONAL SEARCH REPORT

International application No.
PCT/CA2004/001940

C (Continuation). DOCUMENTS CONSIDERED TO BE RELEVANT

Category*	Citation of document, with indication, where appropriate, of the relevant passages	Relevant to claim No.
Y	WO 03/022360 (Handy, E. S. et al.) 20 March 2003 (20.03.2003) Abstract, pages 5-6, page 8 (lines 1-18), page 23 (lines 11-24), page 28 (lines 22-30), Examples and Figure 8	11, 12, 17, 28-30, 38, 40, 42-44, 47-49, 52 and 54
Y	CA 2,434,320 (Vicari, A. P. et al.) 01 August 2002 (01.08.2002) Abstract, Claims, pages 5-6, page 7 (lines 30-37), page 8 (lines 20-25), page 9 (line 6) - page 10 (line 7) and page 10 (lines 30-37)	17, 26, 27, 38, 40 and 47- 49
Y	US 6,366,808 B1 (Schroeppel, E. A. et al.) 02 April 2002 (02.04.2002) Abstract, col. 1 (lines 27-40), col. 9 (lines 50-65), col. 12 (lines 31-46) and Figures 10 and 12	17, 38, 47-49, 52 and 55
A	US 2002/0131953 A1 (Takashima, A. et al.) 19 September 2002 (19.09.2002)	1-55
A	WO 00/59422 (Carroll, R. G.) 12 October 2000 (12.10.2000)	1-55
A	el-Sawy, T. et al. "Chemokines: directing leukocyte infiltration into allografts" Current Opinion in Immunology 2002, 14, 562-568	1-55

INTERNATIONAL SEARCH REPORT
Information on patent family members

International application No.
PCT/CA2004/001940

Patent Document Cited in Search Report	Publication Date	Patent Family Member(s)	Publication Date
US4732155	22-03-1988	None	
US2004/0191246	30-09-2004	None	
CA2178541	08-12-1996	AU716005 B2	17-02-2000
		AU737252 B2	16-08-2001
		AU4995997 A	15-05-1998
		AU5588896 A	19-12-1996
		AU6663298 A	09-09-1998
		CA2278588 A1	27-08-1998
		DE69623855 D1	31-10-2002
		DE69623855 T2	28-05-2003
		DK747069 T3	09-12-2002
		EP0747069 A2	11-12-1998
		EP0968013 A1	05-01-2000
		ES2184838 T3	16-04-2003
		JP9099056 A	15-04-1997
		JP2001512354 T	21-08-2001
		US5609629 A	11-03-1997
		US5824049 A	20-10-1998
		US5873904 A	23-02-1999
		US6096070 A	01-08-2000
		US6530951 B1	11-03-2003
		US6774278 B1	10-08-2004
		US2003028243 A1	06-02-2003
		US2003028244 A1	08-02-2003
		US2003036794 A1	20-02-2003
		US2004047909 A1	11-03-2004
		US2004243225 A1	02-12-2004
		WO9817331 A1	30-04-1998
		WO9836784 A1	27-08-1998
WO03022360	20-03-2003	BR0208642 A	09-03-2004
		CA2438456 A1	10-10-2002
		CA2453676 A1	20-03-2003
		EP1379562 A2	14-01-2004
		EP1409077 A2	21-04-2004
		US2002187892 A1	12-12-2002
		US2003028071 A1	06-02-2003
		US2003032895 A1	13-02-2003
		WO02079276 A2	10-10-2002
WO03061718	31-07-2003	CA2478773 A1	31-07-2003
		EP1478412 A2	24-11-2004
		US2003138415 A1	24-07-2003
CA2434320	01-08-2002	EP1392351 A2	03-03-2004
		JP2004520043 T	08-07-2004
		WO02058723 A2	01-08-2002
US6366808	02-04-2002	US6738663 B2	18-05-2004
		US2004010280 A1	15-01-2004
		US2004254618 A1	16-12-2004
		US2005004507 A1	06-01-2005
		WO2004037341 A2	06-05-2004
US2002/0131953	19-09-2002	WO02072026 A2	19-09-2002
WO0059422	12-10-2000	AU1107800 A	05-06-2000
		AU2618900 A	23-10-2000
		DE10084445 T0	11-07-2002
		DE19983750 T0	03-01-2002
		US6375634 B1	23-04-2002
		WO0028913 A1	25-05-2000

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